



DATE OF MEETING: October 19, 2023  
 TO: Saturna Island Local Trust Committee  
 FROM: Brad Smith, Island Planner  
 Southern Team  
 COPY: Robert Kojima, Regional Planning Manager  
 SUBJECT: Hall ALR Exclusion

## RECOMMENDATION

1. That the Saturna Island Local Trust Committee requests staff to arrange a site visit to the subject property for the Lyackson First Nation, and potentially any other Nation, at the cost of the applicant via the existing cost recovery agreement for application SA-ALR-2023.1 (Hall).

## REPORT SUMMARY

The purpose of this staff report is to provide the Saturna Island Local Trust Committee (LTC) with an update on application SA-ALR-2023.1 (Hall), including a summary of First Nation and agency referrals referral responses, and to seek further direction from the LTC on whether to proceed with submitting an ALR exclusion application on behalf of the property owner.

## BACKGROUND

The property owner, Mr. Ron Hall, has made a request to the LTC to consider submitting an ALR exclusion application to the *Agricultural Land Commission (ALC)*. At the May 25, 2023 meeting, the LTC passed the following resolutions:

<p><b>SA-2023-019</b>  <b>It was Moved and Seconded,</b>          that the Saturna Island Local Trust Committee direct staff to submit an Agricultural Land Reserve exclusion application of behalf of the property owner for the subject properties located on Narvaez Bay Road with the PID numbers of 004-521-889 (exclusion property) and 015-692-205 (inclusion property) and to collect the \$750.00 application fee from the property owner prior to submission of the application.</p> <p style="text-align: right;"><u>CARRIED</u></p>
<p><b>SA-2023-020</b>  <b>It was Moved and Seconded,</b>          that the Saturna Island Local Trust Committee requires that the property owner, through hired consultants, provide all technical support required by staff in respect of the submission of an Agricultural Land Reserve exclusion application for the subject properties located on Narvaez Bay Road with the PID numbers 004-521-889 (exclusion property) and 015-692-205 (inclusion property) and to enter into a cost recovery agreement with the Islands Trust for all costs associated with the application.</p> <p style="text-align: right;"><u>CARRIED</u></p>

Staff, in cooperation with the property owner, have now completed steps 1-4 of the ALC exclusion guide, and are bringing back information to the LTC for their further consideration of next steps, including First Nation referral responses.

Additional application information, including the public hearing binder, is included here: <https://islandstrust.bc.ca/island-planning/saturna/current-applications/>

## ALC EXCLUSION PROCESS STEPS

Staff have completed the following since the May 25, 2023 meeting:

Step 1 - Application submitted to ALC completed by applicant, Attachment 1

Step 2

- Signage posted at property – completed by applicant



- Notice of Public Hearing – included as Attachment 2
- Notice of application provided to adjacent or affected local or First Nation governments – referral responses included in report

Step 3 - Public hearing and Community Information Meeting (CIM) scheduled for October 19, 2023

Following the public hearing, the LTC will be at step 4 of the process:

### **STEP 4: Local or First Nation Government Passes a Resolution on the Application**

- Council/Board passes a resolution to forward or not forward the application to the ALC
  - If forwarded, the application proceeds to the ALC for consideration (see Step 5 below)
  - If not forwarded, the application is refused.
- Local or First Nation government will update the application status in the ALC Application Portal to reflect the outcome of the Council/Board's resolution

If the LTC decides to proceed, staff will complete steps 5 and 6:

**STEP 5: Local or First Nation Government Submits the Application**

- Proof of notice must be submitted with your application including a copy of the newspaper advertisement and photographs of the sign showing the location of posting in relation to the road or other public access
- Upload public hearing report and any other public comments received
- Upload a copy of the local or First Nation government Council/Board resolution
- Include any other application materials

**STEP 6: Local or First Nation Government Pays the Application Fee**

- Submit the \$750 application fee to the ALC
  - Fees can be paid by cheque (made out to the Minister of Finance) or by credit card over the phone or in person

The ALC must offer an exclusion meeting with written notice to the local or First Nation government not more than 30 days before the meeting, with the following requirements:

- The ALC must offer an exclusion meeting with written notice to the local or First Nation government not more than 30 days before the meeting
- If the ALC considers it advisable, the ALC may notify adjacent or affected landowners of the parcel(s) subject to the application
- In advance of the exclusion meeting, the ALC must give notice of the materials that will be considered at the meeting, and any new information received
- At the exclusion there may be:
  - representations from the local or First Nation government (e.g. a presentation)
  - written submissions and other forms of evidence to be considered by ALC
  - representations, evidence, opinions of any person present at meeting
- Following the exclusion meeting, the ALC will provide a draft summary of the exclusion meeting proceedings (the "exclusion meeting report") for verification and sign-off by the local or First Nation government

**FIRST NATION REFERRAL RESPONSES**

Table 1 summarizes First Nation referral responses, including staff actions in response to date. The entire referral record is included in the public hearing binder.

**Table 1. Summary of First Nation Referral Responses**

Lyackson First Nation

After a preliminary review of the LCA Assessment Report by Madrone, there is insufficient information on a number of areas of concern. Without a site visit, we cannot assess the impacts to our constitutionally protected rights. Privatization, logging, and the expansion of residential properties continues to shrink the area we can safely access and harvest.

We would like to understand how the Saturna Island Local Trust Committee unilaterally passed a resolution of support without consulting with the proper rights and title holders. Lyackson First Nation does not consent to the proposed inclusion/exclusion and reiterates our rejection of unilateral decision-making.

Furthermore, and as previously communicated, we require capacity funding to support our meaningful engagement.

**Staff response:** Staff still coordinating a response including determination if capacity funding is available for site visit by Lyackson. Staff seeking direction from LTC to provide funding through the applicant via cost recovery - see more information further below in policy discussion.

Ts'uubaa-asatx Nation (Lake Cowichan)

This application is located within the Ts'uubaa-asatx Nation statement of intent area; it is the interest of the Ts'uubaa-asatx Nation to respectfully maintain our rights and access to the lands and resources throughout our territory. Ts'uubaa-asatx Nation does not have any comments to provide at this time regarding this application proceeding. Please note that this “no comment” response is specifically intended for this application and is without prejudice to all future consultation with our Nation regarding not only the renewal of this application but any other application or decision within the Ts'uubaa-asatx Nation traditional territory.

Furthermore, we may choose in the future to address the issues of Aboriginal rights and/or title infringement and compensation through the treaty process, the courts or other dispute resolution processes. We also reserve the right to raise objections if any cultural use, archaeological sites or environmental impacts are identified when the above development is being carried out or if we discover impacts on our rights or interest that we had not foreseen. Should you require any further information, please do not hesitate to contact our office.

**Staff response:** None required. Information provided to LTC.

Malahat Nation

Malahat Nation notes that the proposed activity falls outside of core Malahat traditional territory, and as such we acknowledge and respect the local First Nation(s)' opportunity to act as primary correspondents in this case. However, in the event they do not, or are unable to respond we reserve our right to consultation and engagement, and continue to require disclosure on an ongoing basis regarding this application.

**Staff response:** None required. Information provided to LTC.

Tsawwassen First Nation

Tsawwassen First Nation (TFN) has no concerns regarding this file, at this time. However, TFN requests all copies of interim and final environmental and archaeological reports produced for this project, if they become available

**Staff response:** None required. Information provided to LTC.

Snuneymuxw First Nation

Defers comment on the above-mentioned referral. Snuneymuxw's deferral is only applicable to initial notification and non-transferrable. Snuneymuxw's deferral does not mean that there are no potential impacts to Snuneymuxw's Aboriginal and Treaty rights and title, or contributions to cumulative effects, from this referral. Nor does Snuneymuxw's deferral define or derogate from Snuneymuxw's Aboriginal and Treaty rights and title. Snuneymuxw reserves the right to review this deferral if new information arises

**Staff response:** None required. Information provided to LTC.

### Tsawout First Nation

Reviewed the proposed application and was hoping you could elaborate on the intent behind the ALR change.

**Staff response:** Staff responded with additional information including intent of the proposed ALR change. Staff followed up seeking to address any additional concerns, no further response was provided by Tsawout at time of writing.

## APPLICATION PROCESSING SERVICES POLICY SUMMARY

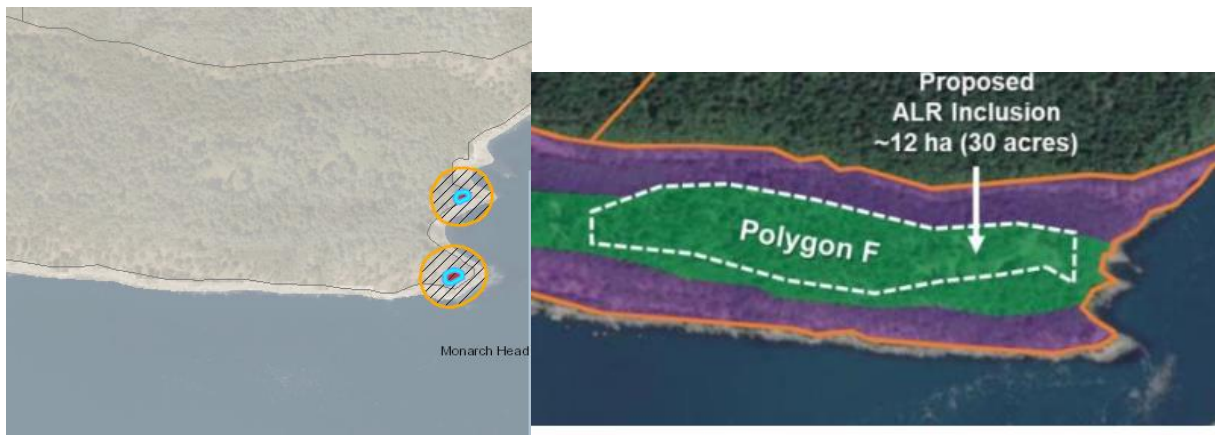
The Application Processing Policy (5.6.1) and fees bylaw states “...where site visits involving First Nations are required for the processing of an application”...staff will assess the cost and go through the cost recovery process.

This is interpreted by staff to mean:

- where there is a known or potential arch site, or
- relevant OCP policy/DAI bylaw, or
- via LTC direction in an application where the LTC has discretion (eg. rezoning or development variance permit – not DPs, TUPs, or other referrals)

In this case, there are two registered archaeological sites located within near proximity of the propose ALR inclusion portion, and there is archaeological potential identified with the inclusion portion itself.

**Figure 1. Archaeological Sites with 50 m buffer and Proposed Inclusion Area**



LTC has discretion as to whether to determine the requirements for a site visit by First Nations as an extraordinary service for processing an application.

## **2.1 Role of LTC in Determining Necessity for Extraordinary Services**

2.1.1 Local trust committees (LTCs) can determine the necessary requirements for processing applications. These requirements may necessitate extraordinary processing services, where the actual or estimated processing service level costs are in excess of the costs of a standard application fee for a similar process because:

2.1.1.1 of additional requirements such as additional public consultation, complex covenant requirements or extensive staff time; or,

2.1.1.2 the processing requirements include services obtained from professions outside Islands Trust such as special technical assistance and/or specific legal services; or,

2.1.1.3 the processing requirements include **First Nations** site visit(s).

Relevant sections of Policy 5.6.1 in respect of cost recovery for First Nations site visits include:

## **3.2 Services Requiring Extraordinary Services Cost Recovery Agreement**

The services identified below are considered to be beyond the scope of standard processing services. These services require payment, in addition to standard application fees established in the Fees Bylaw, of additional fees based on a cost recovery agreement between the Islands Trust and an applicant:

3.2.1 staff time required for covenant development;

3.2.2 staff time to attend more public consultation meetings than that already covered by the standard application fee, including community information meetings, advisory planning commission meetings, and public hearings;

3.2.3 technical assessments or studies as required by the local trust committee;

3.2.4 retaining special technical assistance required by the local trust committee;

3.2.5 additional legal counsel services required for the application not covered under the estimated direct costs of the Fees Bylaw;

3.2.6 process agreement negotiation;

3.2.7 **First Nations** site visits;

6.3 Where site visits involving **First Nations** are required for the processing of an application, staff will provide the Applicant with an estimate of the costs. The Applicant will pay a deposit of 150% of this estimate.

## **AGENCY REFERRALS**

The North Pender, Mayne and South Pender LTC's responded that their interests were unaffected. No other responses were received.

## Rationale for Recommendation

The LTC is now in a position to decide whether to proceed with sending the application to the ALC. However, staff are recommending that the LTC delay this decision, and allow time for the Lyackson First Nation to conduct a site visit, via cost recovery consistent with the application processing services policy. A site visit will provide the opportunity for additional input or concerns to be provided consistent with Islands Trust's Reconciliation Declaration.

## ALTERNATIVES

- 1. If the LTC does proceed in the absence of a site visit by the Lyackson First Nation, staff suggest the following motion:**

*That the Saturna Island Local Trust Committee directs that staff submit application SA-ALR-2023.1 (Hall) to the Agricultural Land Commission for consideration of the proposed 12-hectare land exclusion.*

Staff would proceed with submitting the application to the ALC, including the input provided by all First Nations.

- 2. Request further information**

The LTC may request further information prior to making a decision. Recommended wording for the resolution is as follows:

*That the Saturna Island Local Trust Committee request that the applicant submit to the Islands Trust.*

- 3. Deny the application**

The LTC may choose not to proceed with the application.

*That the Saturna Island Local Trust Committee proceed no further with application SA-ALR-2023.1.*

- 4. Hold the application in abeyance**

The LTC may choose to hold the application in abeyance.

- 5. Receive for information**

The LTC may receive the report for information.

## NEXT STEPS

Describe the next steps in the process, if applicable.

Submitted By:	Brad Smith, PAg Island Planner	October 6, 2023
Concurrence:	Robert Kojima Regional Planning Manager	October 10, 2023

## ATTACHMENTS

1. Attachment 1. Application submission to ALC
2. Attachment 2. Public Hearing Notice





# Provincial Agricultural Land Commission - Applicant Submission

**Application ID:** 68692

**Application Status:** In Progress

**Applicant:** Ronald Hall

**Agent:** Islands Trust

**Local Government:** Islands Trust Regional District

**Local Government Date of Receipt:** This application has not been submitted to local government yet.

**ALC Date of Receipt:** This application has not been submitted to ALC yet.

**Proposal Type:** Exclusion - Local Government

**Proposal:** Exclusion application is intended to be submitted on behalf on property owner as part of an Agricultural Land Reserve (ALR) exclusion and inclusion application for review and consideration by Islands Trust and the Agricultural Land Commission (ALC). One parcel is located at 206 Narvaez Bay Road and contains the provincial parcel identification (PID) 004-521-889 (referred to as the Exclusion Property as part of this parcel is being proposed for exclusion from the ALR by the Client). The other parcel has no address but contains the PID 015-692-205 (hereafter referred to as the Inclusion Property as part of this parcel is being proposed for inclusion into the ALR by the property owner - inclusion application ID 68674

## Agent Information

**Agent :** Islands Trust

**Mailing Address :**

200-1627 Fort Street

Victoria, BC

v8r 1h8

Canada

**Primary Phone :** (778) 679-5185

**Email :** bsmith@islandstrust.bc.ca

## Parcel Information

### Parcel(s) Under Application

1. **Ownership Type :** Fee Simple

**Parcel Identifier :** 004-521-889

**Legal Description :** THE NORTH EAST 1/4 OF SECTION 2, SATURNA ISLAND, COWICHAN DISTRICT, EXCEPT PART IN PLAN 31309

**Parcel Area :** 41.1 ha

**Civic Address :** 206 Narvaez Bay Road

**Date of Purchase :**

**Farm Classification :** No

**Owners**

**Applicant:** Ronald Hall



1. **Name :** Ronald Hall

**Address :**

██████████

████████████████████

██████████

Canada

**Phone :** ██████████

**Email :** ██████████

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### **Ownership or Interest in Other Lands Within This Community**

1. **Ownership Type :** Fee Simple

**Parcel Identifier :** 015-692-205

**Owner with Parcel Interest :** Ronald Hall

**Parcel Area :** 90.7 ha

**Land Use Type :** Other

**Interest Type :** Full Ownership

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### **Current Use of Parcels Under Application**

1. **Quantify and describe in detail all agriculture that currently takes place on the parcel(s).**

*None*

2. **Quantify and describe in detail all agricultural improvements made to the parcel(s).**

*None*

3. **Quantify and describe all non-agricultural uses that currently take place on the parcel(s).**

*Land is vacant and is designated as PMFL*

### **Adjacent Land Uses**

#### **North**

**Land Use Type:** Other

**Specify Activity :** National Park Reserve

#### **East**

**Land Use Type:** Other

**Specify Activity :** National Park Reserve

#### **South**

**Land Use Type:** Other

**Specify Activity :** Zoned Forest General

**Applicant:** Ronald Hall

## West

**Land Use Type:** Other

**Specify Activity :** National Park Reserve

## Proposal

### 1. How many hectares are you proposing to exclude?

*12 ha*

### 2. Does any land under application share a common property line with land in another Local or First Nation Government?

*No*

### 3. What is the purpose of the proposal?

*Exclusion application is intended to be submitted on behalf on property owner as part of an Agricultural Land Reserve (ALR) exclusion and inclusion application for review and consideration by Islands Trust and the Agricultural Land Commission (ALC). One parcel is located at 206 Narvaez Bay Road and contains the provincial parcel identification (PID) 004-521-889 (referred to as the Exclusion Property as part of this parcel is being proposed for exclusion from the ALR by the Client). The other parcel has no address but contains the PID 015-692-205 (hereafter referred to as the Inclusion Property as part of this parcel is being proposed for inclusion into the ALR by the property owner - inclusion application ID 68674*

### 4. Explain why you believe that the parcel(s) should be excluded from the ALR.

*From property owners professional land capability assessment (LCA) report: Based on the collected information from our field assessment and background review, it is the objective, professional opinion of Madrone that the ALR exclusion and inclusion proposal by the Client (Figure 8; Appendix A of LCA report) increases the overall capability of agriculture on Saturna Island should the proposal be accepted by Islands Trust and the ALC. The proposal, which would result in a no net loss of land in the ALR, would improve ALR by at least two LCA classes (i.e., an improvement from Class 5 to 6 land in the Exclusion Property to Class 3 in the Inclusion Property) over an area of ~12.0 ha (30 acres). As such, the proposal would accommodate and encourage long-term farming by the landowner (i.e., the Client) by substantially broadening his options for agricultural activities. Moreover, the proposed ALR exclusion area will not, in Madrones professional opinion, affect the integrity and continuity of the land base of the ALR in the Exclusion Property.*

## Applicant Attachments

- Professional Report - LCA Report
- Proposal Sketch - 68692

## ALC Attachments

None.

## Decisions

None.

**Applicant:** Ronald Hall

# HAVE YOUR SAY



Islands Trust

## ALR Land Exclusion/Inclusion Application

Agricultural Land Reserve (ALR) application to exclude 12 hectares of land from the ALR with a corresponding inclusion of 12 hectares on an adjacent property

Subject Property Addresses: 206 Narvaez Bay Road

Parcel Identifier Numbers: 004-521-889, 015-692-205

Application: SA-ALR-2023.1 (Hall)

## COMMUNITY INFORMATION MEETING & PUBLIC HEARING SATURNA ISLAND LOCAL TRUST COMMITTEE

### What is the purpose of the Public Hearing?

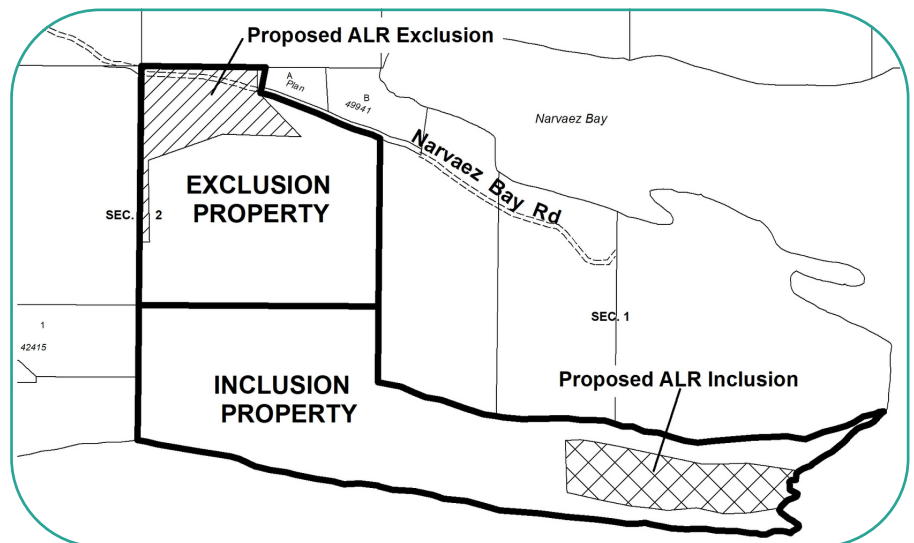
The purpose of this public hearing is to consider a request by the property owner to exclude 12 hectares of property on Narvaez Bay Road from the Agricultural Land Reserve (ALR), with a corresponding ALR inclusion of 12 hectares on an adjacent property, as shown in the map below and as identified in the Land Capability for Agriculture Assessment Report found under professional reports at: [Saturna Island Current Application webpage](#)

In accordance with the *Agricultural Land Commission Act*, exclusion applications may only be submitted by government agencies including for land they do not own that is located within their jurisdiction. The public hearing is required as part of the regulatory process and is intended to provide the public with an opportunity to speak to the application prior to the Saturna Island Local Trust Committee considering formal application submission to the Agricultural Land Commission on behalf of the property owner.

### How do I get more information?

Copies of the application, the Public Hearing Binder and other information on the application is available on the [Saturna Island Current Application webpage](#) and, at the Islands Trust office at 200-1627 Fort Street, Victoria, BC, V8R 1H8 from the hours of 8:30 a.m. to 4:30 p.m. Monday to Friday, excluding statutory holidays, after October 5, 2023.

A Community Information Meeting (CIM) will be held prior to the Public Hearing and will provide the opportunity for members of the public to ask questions about the proposed ALR exclusion/inclusion.



### Submissions

Prior to the Public Hearing: Written submissions will be accepted until 4:30 p.m., October 18, 2023, by Email: [vicphsub@islandstrust.bc.ca](mailto:vicphsub@islandstrust.bc.ca), or Mail or Drop Off: Islands Trust, 200-1627 Fort Street, Victoria, BC, V8R 1H8

At the Public Hearing: Only written submissions presented at the Public Hearing will be accepted until the close of the Public Hearing. Written comments made in response to this notice will be available for public review.



Community Information Meeting and Public Hearing

Thurs., October 19, 2023 at 11:30 a.m.



Saturna Recreation and Cultural Centre  
104 Harris Road  
Saturna Island, BC



Who should attend?  
Anyone affected by the proposed application.



### Enquiries?

Brad Smith  
Island Planner  
[bsmith@islandstrust.bc.ca](mailto:bsmith@islandstrust.bc.ca)  
778-679-5185